

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on July 20, 2010 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-15 and 17-21 are pending in this application, where claim 16 has been currently canceled without prejudice, and claims 20-21 have been currently added. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications. Claims 1, 13, 14 and 15 are independent.

In the Final Office Action, claim 14 is rejected under 35 U.S.C. §101. This rejection is respectfully traversed. However, to advance prosecution, claim 14 has been amended to better recite statutory subject matter. It is respectfully submitted that this rejection of claim 14 has been overcome. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 1-19 are rejected under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. 2004/0261099 (Durden) in view of U.S. Patent Application Publication No. 2004/0261096 (Matz). Applicant respectfully traverses and submits that claims 1-15 and 17-21 are patentable over Durden and Matz for at least the following reasons.

Durden is directed to a parental control where alternate content is presented when

the rating and content attributes exceeds a threshold. For example, as shown in the third entry of Table III on page 6, and described in paragraph [0076], when the rating of a content segment starting at "00:11:15:02" indicates "R" for including vulgar language "L", a designated alternate track is presented as indicated by "change to 14" in the third entry of Table III. The designated alternate track is pre-determined and there is no need to estimate anything based on time. That is, any switching of content, e.g., to present alternate content and revert back to the normal content, is NOT based on time. Rather, content replacement or switching is based on rating and content attributes, and thus there is no need to estimate any remaining time.

It is respectfully submitted that Durden does not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claims 13, 14 and 15 which, amongst other patentable elements, recites (illustrative emphasis provided):

a time-estimating device arranged to estimate, upon receipt of said command, a remaining time necessary for outputting a remaining part of said first media content item, the remaining time being measured from substantially said particular time to an end of the duration of said first media content item; and

a search device arranged to search for at least one second media content item, wherein a duration of said at least one second item is substantially equal to said remaining time.

A time-estimating device arranged to estimate the remaining time necessary for outputting a remaining part of said first media content item is nowhere disclosed or suggested in Durden. In Durden, there is no need to estimate any remaining time

estimation, as content replacement or switching is based on **rating and content attributes**, and not based on any estimated remaining time necessary for outputting a remaining part of the current content.

In the Final Office Action, the paragraph spanning pages 4-5, it is alleged the because of the recitation of paragraph [0060], the Durden device 'can' estimate time. This allegation is respectfully traversed, as paragraph [0060] merely describes that timestamps. In particular, paragraph [0060] of Durden specifically recites:

Timestamp 44 **associates** program content and program control data **with a particular time** interval within a program 40. The time interval may be represented as an offset from the start of program 40 and may be expressed in hours, minutes, and seconds or in any smaller unit of time, such as the length of a video frame.
(Emphasis added)

It is respectfully submitted that associating items with time has nothing to do with estimating the remaining time necessary for outputting a remaining part of a media content item. Further assuming, arguendo, that the Durden device 'can' estimate time, it is respectfully submitted that a mere 'capability' is not sufficient to meet claim features which are positively recited. Whether or not prior art is capable of performing the recitations of the claims is not a proper part of an obviousness analysis. Otherwise, for example, any processor, which is 'capable' to perform any function if programmed to do so, may be deemed prior art to a particular processor which is specifically configured to perform a specific function recited in a claim. Matz is cited to allegedly show other features and does not remedy the deficiencies in Durden.

Based on the foregoing, it is respectfully submitted that independent claims 1, 13, 14 and 15 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-12 and 17-21 should also be allowed at least based on their dependence from independent claim 1, as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

For example, fading out the output of the second media content item upon expiration of said remaining time, as recited in claims 4 and 20, is nowhere disclosed or suggested in Durden, Matz, and combination thereof. Paragraph [0080] noted on page 6 of the Final Office Action in rejection claim 4, has nothing to do with fading out, let alone fading out "upon expiration of the remaining time," as recited in claims 4 and 20. Rather, paragraph [0080] merely described that blocking is turned off when the rating is indicated to be "G" where paragraph [0080] specifically reciting:

"00:24:46:00 G" indicates that the rating has returned to G.
Turn off any blocking or modifications that resulted from the
previous timestamp.

Further, Durden, Matz, and combination thereof, do not disclosed or suggest that "the output device is configured to interrupt outputting the first media content item upon expiration of a search time," as recited in claim 17. Any changes or content replacement with alternate content in Durden is in response to rating changes, or when the **rating and content attributes** exceeds a threshold, and NOT in response to expiration of any search

time, as recited in claim 17.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 

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